

ARTICLE 15 HISTORIC PRESERVATION ORDINANCE

1501 PURPOSE

It is hereby declared as a matter of public policy that the City of Sedona joins with the United States of America and the State of Arizona in promoting the protection, enhancement, and perpetuation of properties and areas of historic, cultural, archaeological and aesthetic significance as being necessary for the economic, cultural, educational and general welfare of the public. This is done pursuant to the provisions of the National Historic Preservation Act of 1966 as amended, and the Arizona Revised Statutes, Section 9-462.01.

Inasmuch as the identity of a people is founded on its past, and inasmuch as Sedona has many historic, archaeological and cultural resources which constitute its heritage, this ordinance is intended to:

- Identify and preserve the landmarks which represent distinctive elements of Sedona's historic, archaeological, architectural and cultural heritage.
- Promote the use of historic landmarks for the education, pleasure, and welfare of the people of the City.
- Foster civic pride in the accomplishments of the past.
- Protect and enhance Sedona's attractiveness to visitors and the support and stimulus to the economy thereby provided.
- Stabilize and improve property values of rehabilitated and protected sites.
- Provide incentives for restoration by owners of landmarks or historic properties.
- Provide standards for restoration of landmarks and new construction within historic districts.

1502 RELATION TO COMMUNITY PLAN

The administration of this Article shall be pursued in accordance with the recommendations set forth in the Sedona Community Plan.

1503 DEFINITIONS

For the purpose of this Article, certain words, phrases and terms used herein shall have the meaning assigned to them by this Section. When not inconsistent with the context, words used in the present tense include the future; words in the singular include the plural and those in the plural include the singular. The word "shall" signifies mandatory; the word "may" is permissive.

Alteration: Any aesthetic, architectural, mechanical or structural change to the exterior surface of any significant part of a Designated Property as defined herein.

Archaeological site: A site containing any structure, articles or remains resulting from historic human life, habitation or activity, including but not limited to petroglyphs, pictographs, paintings, pottery, tools, ornamentation, jewelry, textiles, ceremonial objects, weapons, armaments, vessels, vehicles or human remains.

Building: A structure created to shelter any form of activity, such as a house, barn, church, hotel, or similar structure. "Building" may also refer to a historically-related complex, such as a courthouse and jail, or a farmhouse and barn.

Cemetery: Any site which contains at least one burial, marked or previously marked, considered a dedicated cemetery under Arizona State Statutes, even though it may be currently suffering neglect and abuse.

Certificate of Appropriateness: An official form of the City stating that proposed work on a designated property is compatible with the historic character of the property, and therefore (1) may be completed as specified in the Certificate, and (2) any building permits needed to do the work specified in the Certificate may be issued.

Construction: The act of adding to a structure, or the erection of a new principal or accessory structure on a lot or property, which requires a City building permit.

City: The City of Sedona, Arizona.

Demolition: Any act or process which totally or partially destroys a Designated Property.

Designated Property: A property which has received City designation as a Landmark, or any property within a Historic District, according to the provisions of this Article and by the overlay of an HP Zone designation.

Historic District: A designation, in the form of Historic Preservation Overlay zoning, applied to all properties within an area of defined boundaries, as a result of processes provided in this Article and formal adoption by the City Council.

Historic Preservation (HP) Commission: The Historic Preservation Commission of the City, as described in this Article.

Historic Property Register: The listing and defining of Designated Properties of Sedona as provided in this Article.

Landmark: A designation, as a result of processes provided in this Article, applied by the HP Commission to an individual property, which has a historic value or expresses a distinctive character worthy of preservation.

Maintenance: Regular, customary or usual care for the purpose of preserving a property and keeping it in a safe, sanitary and usable condition.

Planning and Zoning (P&Z) Commission: The Planning and Zoning Commission of the City of Sedona, Arizona.

Removal: Any relocation, in part or whole, of a structure on its site or to another site.

Repair: Any physical change that is not alteration, construction, removal or demolition.

Review Criteria: The Historic Preservation Criteria for Review, as adopted by the Historic Preservation Commission.

Structure: Anything constructed or erected, the use of which requires a permanent or semi-permanent location on or in the ground, including but not limited to bridges, dams, water distribution systems, buildings, garages, fences, gazebos, advertising signs, antennas, satellite sending or receiving dishes, paved parking or circulation areas, sculpture, and recreational facilities.

1504 HISTORIC PROPERTY REGISTER

There is hereby established a Sedona Historic Property Register for the purpose of listing and defining the Landmarks and Historic Districts to be designated under the provisions of this Article.

This Register, as shall be created and may be periodically amended by the Historic Preservation Commission, shall be held available for public reference and historical study.

1505 HISTORIC PRESERVATION COMMISSION

There is hereby created a commission to be known as the Sedona Historic Preservation Commission (HP Commission).

1505.01 Membership

The HP Commission shall consist of five members who shall be residents of the City, appointed by the City Council. Prospective members should have demonstrated significant interest in and commitment to the field of historic preservation, evidenced either by involvement in a local historic preservation group, current or previous employment or volunteer activity in the field of historic preservation, or other serious interest in the field. To the extent possible, it is desirable that two members be current or previous professionals in the areas of architecture, history, planning or archaeology.

Immediately prior to assumption of the duties of office, each member shall take and subscribe to the oath of office.

1505.02 Term of Office

Appointment to the Commission shall be for terms of three years, or for a lesser time at the Council's discretion in order to maintain staggered terms so that the terms of no more than two members shall expire in any given year. All terms shall begin on December 1st and shall end on November 30th or until a successor is appointed and qualified.

In the event of a resignation, removal or death of a member, the Council shall fill the vacancy for the unexpired term.

The Council may remove a Commission member for neglect of duty, misconduct, or for three successive unexplained absences, without the necessity of a public hearing or notice. Such action shall be final.

All Commission members shall serve without pay, except that members may be reimbursed for actual expenses incurred in connection with their duties upon authorization and approval of such expenditures by the City Manager or Council.

1505.03 Officers

The members of the HP Commission shall elect from among themselves a Chairman and a Vice Chairman. These officers shall serve a one-year term. Not less than 20 days before the end of such term, the Commission shall elect officers for the following term. Officers may serve successive terms, if so chosen by the Commission.

The Chairman shall preside at meetings and exercise the usual rights, duties and prerogatives as the head of similar organizations. The Chairman shall serve as Commission liaison with the City staff, and shall see that official minutes are kept of Commission meetings. The Chairman shall also be responsible for other duties as described in this Article.

The Vice Chairman shall perform the duties of Chairman in the latter's absence or disability.

Vacancy in either office shall be filled for the unexpired term through a new election by the members.

The Commission may also choose to elect a Secretary from among its members, to assist the

Chairman with the keeping of minutes, preparation of reports, and other correspondence.

1505.04 Meetings

The Commission shall meet a minimum of four times per year, and more often if needed. Until the adoption of its historic preservation plan and the other items as described in Section 5.6 (a) through (d) herein, the Commission shall meet at least once per month.

Three members shall constitute a quorum. The affirmative vote of the majority of members present shall be required for passage of any matter before the Commission. Any member may abstain from voting on a matter by declaring a conflict of interest, in which case such member shall step down and take no part in discussions or deliberations on that matter.

1505.05 Rules and Procedures

The HP Commission shall make and publish rules to govern its proceedings, subject to ratification by the City Council. All meetings of the Commission shall be open to the public and noticed as provided by Arizona law.

Minutes shall be kept of all meetings. The minutes shall include all issues considered, and shall record the individual votes of members on each issue.

1505.06 Powers and Duties

The HP Commission shall have these responsibilities:

- A. Develop, maintain and periodically update as needed, a plan for historic preservation.
- B. Develop and adopt written Historic Preservation Criteria for Review, to assure fair and impartial evaluation and designation of properties as Landmarks and Historic Districts. The HP Commission shall review these criteria at least once every second year, and make such adjustments or updates as may be required.

- C. Conduct detailed studies and surveys of properties, structures and areas and assess their potential for designation.
 - D. Review property nominations for designation as Landmarks, and make decision to Designate, conditionally Designate, or deny Designation. Such review shall be based on the criteria as established in (B) above. The Commission may require the presentation of such plans, illustrations, specifications and other information as may be necessary to make its decisions.
 - E. Review property nominations for designation as Historic Districts, and make recommendations regarding HP Zone Overlay to the Planning and Zoning Commission and the City Council. Such review shall be based on the criteria as established in (B) above. The Commission may require the presentation of such plans, illustrations, specifications and other information as may be necessary to make its decisions.
 - F. Establish and maintain the Sedona Historical Property Register as an inventory of Designated Properties.
 - G. Establish design criteria for review of applications for Certificate of Appropriateness, as defined in Section 1508, subject to review by the Planning and Zoning Commission and ratification by the City Council.
 - H. Review and approve, conditionally approve or deny applications for a Certificate of Appropriateness.
 - I. Determine and cause to be created a system of markers for designated properties.
 - J. Advise and assist owners of Designated Properties regarding the physical and economic advantages of preservation, rehabilitation, renovation and reuse.
 - K. Make recommendations to the City Council regarding the acquisition of property suitable for preservation. Such acquisition may include the purchase or acceptance of donated property.
 - L. Make recommendations to the City Council regarding the utilization of federal, state, City or private funds to promote historic preservation.
 - M. Seek gifts, grants and funding as may be appropriate for these purposes.
 - N. Cooperate with and enlist the assistance of persons, organizations, foundations and public agencies in matters involving historic preservation, renovation, rehabilitation and reuse.
 - O. Increase public awareness of the values of historic, cultural, archaeological and architectural preservation, by developing and participating in public education programs.
 - P. Cause to be prepared annual written reports of Commission activities; submit such reports to the State Historic Preservation Office (SHPO); and make them available to the public.
 - Q. Not less than every five years, review the Historic Resource Survey and consider the designation of any properties which may have come to meet the requirements herein, and the deletion of any properties which may no longer exist.
 - R. Carry out such other duties as may be determined by the City Council, and present other such recommendations as may be deemed pertinent.
- 1505.07 Subcommittees**
- Advisory committees may be created by the Chairman or by the Commission to study and report on pertinent matters. Such subcommittees may include citizens who are not members of the Commission, but shall include at least one HP Commission member who shall serve as chair of the subcommittee.
- 1506 DESIGNATION PROCESS**
- 1506.01 Application**
- Application may be made to the HP Commission through the City Dept. of Community Development

for the designation of a property as Landmark by the owner of such property, using such form(s) and accompanied by such fee as may be adopted. Similar application may be made by owners of several properties for designation as a Historic District. The designation process, as defined below, may also be initiated without fee by the HP Commission, observing the established criteria and hearing processes.

Application for designation as a Landmark or Historic District shall be accompanied by:

- A. Name, mailing address and telephone number of applicant.
- B. Name, mailing address and telephone number of owner of property in question.
- C. A vicinity ownership map showing the proposed property and all parcels adjacent to, including and surrounding the proposed designated property or district within a radius of 300 feet from its external boundaries. Each such parcel shall be identified by a number to correspond with the ownership/tenant list described in 1506.1 (D) below.
- D. A typed or legibly primed list containing names and mailing addresses of owners of parcels described and identified in 1506.1(C) above, and the names and mailing addresses of any tenants associated with the described parcels
- E. An accurate legal description or parcel number(s) of proposed property or properties.
- F. A written description of the proposed designated property or district, addressing the pertinent criteria.

1506.02 Notice of Consideration of Designation

Upon receipt of a complete application, or initiation by the HP Commission after discussion with the property owner, for the designation of a Landmark or Historic District, the Chairman of the HP Commission shall place it on the agenda for a public hearing within 60 days to consider the designation. The Chairman shall cause notice to be delivered in person or sent by Certified Mail to the

owner(s) of the property so proposed announcing the hearing, at least fifteen (15) days before the public hearing. Public notice of this hearing shall be given as prescribed by Arizona law. Owners of adjacent or nearby properties, as described in 1506.1(C), shall be notified of the scheduled hearing by First Class Mail.

Once the Commission has issued such notice, the Chairman of the Commission shall notify the Chief Building Inspector, and no building or demolition permits affecting the proposed property shall be issued by the City until the process as described herein has been completed and the Commission and City Council have made their decisions.

1506.03 Public Hearing for Designation

- A. The HP Chairman shall cause to be made available to HP Commission members and the public, not less than ten working days before the scheduled hearing, a report including the description of the application and other appropriate information. Commission members shall make every effort to inspect the property prior to the hearing.
- B. At the hearing, concerned persons may present testimony and/or documentary evidence which will become part of the record of the hearing and the deliberations of the HP Commission.
- C. The HP Commission shall review the application based on applicable criteria, and make its decision within 30 days.
 - 1. In the case of Landmark consideration, this decision shall be either to approve, conditionally approve or deny the application. The Commission's decision is final unless appealed to the City Council within 10 working days of said decision. A recommendation for approval may be subject to such conditions as the HP Commission deems applicable in order to fully carry out the provisions and purpose of this Article.
 - 2. In the case of Historic District consideration, the HP Commission shall render a recommendation to the P&Z

Commission and the City Council to approve or conditionally approve the application, or may vote to deny it. In case of denial, the HP Commission's decision shall be final unless appealed to the City Council within 10 working days.

- D. The procedure to remove Landmark or Historic District designation shall be the same as the procedure to designate as provided herein. In case of denial of designation removal, a re-application will not be considered within less than one year.

1506.04 Action by Planning and Zoning Commission

Upon receipt of a recommendation from the HP Commission regarding designation as a Historic District, the Planning and Zoning Commission shall use its procedures to approve, conditionally approve or deny the application within 30 days, and pass on its recommendation to the City Council.

1506.05 Action by Council

Upon receipt of a recommendation from the P&Z Commission regarding designation, the City Council shall use its procedures to approve, conditionally approve or deny the application.

1507 EFFECT OF DESIGNATION

1507.01 Zoning Overlay

Upon designation by the HP Commission, a Landmark shall be so designated on the Historical Property Register and on such other City documents as shall be appropriate for its preservation. Upon designation by the City Council, a Historic District shall be designated by the application of a corresponding HP Overlay Zoning district and referenced by an "HP" symbol on the map of the City, to be issued by the Dept. of Community Development. The Historic District shall also be so designated on the Historical Property Register and on such other City documents as shall be appropriate for its preservation.

1507.02 Permitted Uses

Any uses permitted by the existing underlying zoning classifications shall be permitted. Designated properties are subject to the provisions of the Land Development Code and the Sedona Community Plan.

1507.03 HP Commission Approval Required

No person shall carry out any exterior alteration, restoration, reconstruction, new construction, demolition or removal, in whole or in part, of any Landmark or any property within a Historic District without first obtaining a Certificate of Appropriateness as provided in Section 1508.

No person shall make any material change in the appearance of a designated property, its color, materials, light fixtures, signs, sidewalks, fences, steps, paving or other elements which affect the appearance of the property without first obtaining a Certificate of Appropriateness as provided in Section 1508.

The Certificate required by this Article shall also be subject to the review requirements set forth in Section 401 (Development Review) of the Land Development Code.

1508 CERTIFICATE OF APPROPRIATENESS

The HP Commission shall develop, adopt and publish criteria for review of applications for Certificate of Appropriateness, which is required according to Section 1507.

1508.01 Application for Certificate

An application for a Certificate of Appropriateness shall be made to the Chairman of the HP Commission, and shall include:

- A. Name, address and telephone number of applicant.
- B. Location and description of property with photographs.
- C. Plan, elevation and detail drawings of proposed changes, showing relationship to adjoining properties and streets.
- D. Samples of colors and materials to be used.
- E. If the proposal includes signs or lettering, a scale drawing showing dimensions, lettering, colors, materials and any illumination along with a drawing showing the location of the sign on the property.
- F. Any additional information which the Commission may require to visualize the proposed work.

1508.02 Hearing by HP Commission for Certificate

- A. Upon receipt of a complete application for a Certificate, the Chairman of the HP Commission shall place it on the agenda for a public hearing within 30 days. Public notice of this hearing shall be given as prescribed by Arizona law.
- B. The Chairman shall make available to HP Commission members and the public, not less than ten days before the scheduled hearing, a report including the application and other appropriate information. HP Commission members shall make every effort to inspect the property prior to the hearing.

C. At the hearing, concerned persons may present testimony and/or documentary evidence which will become part of the record of the hearing and the deliberations of the Commission.

D. The Commission shall review the application based on applicable criteria, and make its decision to approve, conditionally approve or deny.

1509 MAINTENANCE AND REPAIR

Each property designated as a Landmark, and each property within a Historic District, shall be maintained in good condition and faithful to its historic character.

Nothing in this Article shall be construed to prevent normal maintenance and repair which does not involve change in design, material, color or outward appearance.

1510 ECONOMIC HARDSHIP

An application for demolition or removal of a Landmark or property within a Historic District may, if appropriate, be accompanied by a request for relief from economic hardship.

Before granting such request, the Commission shall study the historic or cultural value of the property, and shall review options including incentives to the owner for restoration, or recommendation to Council that the City purchase the property.

Separate standards and application requirements may be established by the City for granting economic hardship relief for income-producing properties and for non-income-producing properties.

- A. Investment or income-producing properties: Economic hardship relief may be granted if the applicant satisfactorily demonstrates that a reasonable rate of return cannot be obtained from a property which retains features which contribute to its distinctive character in its

present condition nor if rehabilitated, either by the current owner or a potential buyer.

- B. Non-income-producing properties: Economic hardship relief may be granted if the applicant satisfactorily demonstrates that the property has no reasonable use as a single-family dwelling or for institutional use in its present condition or if rehabilitated, either by the current owner or a potential buyer.

Economic hardship relief shall not be granted due to any of the following circumstances: willful destructive acts committed or caused by the owner; purchase of the property for substantially more than its fair market value; failure to perform normal maintenance and repair; or failure to diligently solicit and retain tenants or provide normal tenant improvements.

1511 APPEALS

Any person or group of persons aggrieved by a decision of the HP Commission may appeal to the City Council within 10 working days of the Commission's action, by filing with the City Clerk written notice of appeal and any applicable fee as may be adopted. The Council shall render a decision to sustain, conditionally overrule or overrule the Commission decision. The Council may choose to hold a public hearing if deemed appropriate.

1512 IMMINENT PUBLIC HAZARD

Notwithstanding other provisions of this Article, if the City Building Official finds a designated property is an imminent hazard to public safety and determines that repairs or relocation would not be feasible, the City Building Official may approve the necessary demolition or removal, in whole or in part, subject to other City requirements.

1513 INCENTIVES

It is the intent of the City to make ownership of a Landmark or property within a Historic District as beneficial as possible. In addition to the intangible benefits of owning a property recognized

as an important community resource, the Commission may, when applicable and possible, provide such owners with one or more of the following:

- A. Recommendation to the Dept. of Community Development that an alternate or transitional use be considered.
- B. Advice in locating potential sources of financial assistance and tax credits;
- C. Advice in preparing grant applications and potential third party sponsorship;
- D. Technical information and referrals;
- E. Assistance in locating buyers and/or sellers;
- F. Assistance in the formulation of a neighborhood association;
- G. Assistance in obtaining other benefits as may become available.

1514 VIOLATIONS AND ENFORCEMENT

All work performed pursuant to a Certificate of Appropriateness under this Article shall conform to requirements thereof. Compliance shall be confirmed by inspections made by the Building Inspector and the HP Commission Chairman or his designee. Certain requirements of the Certificate, such as signs, lighting, landscaping and site development shall be reviewed for compliance.

Any action regarding a violation of any provision of this Article shall be brought to the City Attorney. Any person, firm, corporation or other entity found to be in violation of any provision of this Article shall be guilty of a class 1 misdemeanor, punishable in accordance with Article 14 of the Land Development Code.

Any person who causes unauthorized demolition, alteration, construction, or permits degradation or disrepair of a Designated Property as defined in this Article may be required to restore the property and site to its condition prior to the violation. The civil remedy shall be in addition to, and not in lieu of, any criminal prosecution and penalty.

1515 SEVERABILITY

This Article and its sections are hereby declared to be severable. If any section, subsection, clause, word or phrase of this Article is held to be void, unlawful or unconstitutional, such holdings shall not affect the validity of the remainder of this Article or of the Land Development Code.